

REMARKS

Claims 8-21 were previously pending in the application. By the Amendment, Claims 14 and 21 are currently amended, and Claims 8-13 and 15-20 remain unchanged. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

The claims were objected to for informalities and stand rejected under 35 U.S.C. §112 and over the cited prior art of record. Specifically, claims 10 and 17 were rejected under 35 U.S.C. §112, first paragraph. Additionally, claims 15, 16 and 19 were rejected under 35 U.S.C. §112, first paragraph. Claims 8-10 were rejected under 35 U.S.C. §102(b) as being anticipated by Melson et al. (U.S. Patent No. 6,113,206). Claims 11 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Melson in view of Aitken (U.S. Patent No. 5,179,045), and claims 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Melson in view of Tagaki et al. (U.S. Patent No. 6,165,590). Still further, claims 15-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Melson in view of an article entitled "The Period Arts Fan Company" and Tagaki, and claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Melson in view of "The Period Arts Fan Co.," Tagaki, and Aitken.

Independent claim 8 recites a cooling device including an inner chamber provided with at least one placement device for items to be placed such as food, where the placement device includes a shelf area made of a ceramic material. Independent claim 15 recites a cooling device including an inner chamber provided with at least two placement devices for items to be placed such as food, where a first one of the placement devices is formed of a support plate made of a non-glass ceramic material and including a shelf area made of the non-glass ceramic material. A second one of the placement devices is formed as a pull-out box that includes a shelf area made of the non-glass ceramic material.

Informalities

Claims 14 and 21 were objected to for typographical errors. By this Amendment, claims 14 and 21 have been amended as suggested by the Examiner. Withdrawal of the objection is requested.

35 U.S.C. §112

The Office Action contends that "[c]laim 10 is not enabling for describing the door compartment (9) as being part of the inner chamber." Claim 10 recites that the placement device is constructed as at least one of a support plate, a door compartment or as a pull-out box. Consistent with this language, the specification describes that the placement device can comprise a door compartment. See, for example, page 1, lines 5-6; and page 3, lines 4-6. Additionally, although claim 8 references the "at least one placement device" provided in the inner chamber, presumably, it is the Examiner's contention that a door compartment is not provided in the inner chamber, which purportedly renders the claim non-enabling. To the contrary, however, Applicant respectfully submits that those of ordinary skill in the art would readily appreciate that with the door in a closed position, a door compartment would be effectively disposed within the inner chamber of the cooling device. This understanding is consistent with the description in the specification. For example, the specification describes a refrigerator 1 including a body 2 and a door 3. The specification also describes that the cooling device 1 comprises an inner chamber 4. "Food or other items to be cooled can be stored therein [in the inner chamber] generally at temperatures of about 0°C to about 10°C." The specification further provides that "the cooling device comprises placement devices such as support plate 6, pull-out drawer 7 and door compartments 9 for placing the items," referring to the "items" that are stored in the inner chamber. From this description, it is clear that the specification provides support and is enabling for door compartments provided in the inner chamber.

The Office Action further contends that claim 17 is not enabling "for properly describing where a third placement device is to be placed." With reference to the discussion above, however, it would be apparent to those of ordinary skill in the art that the third placement device could be a door compartment as described. Withdrawal of the rejection is requested.

With regard to claims 15, 16 and 19, the Office Action contends that reference to the ceramic material being "non-glass ceramic" amounts to new matter. Applicant respectfully disagrees. In the background section, the specification describes disadvantages of placement devices in current cooling devices that are made of plastics, glass and/or metal. In particular, with regard to glass, the specification describes a disadvantage of the prior art is that "placement devices made of glass are very sensitive to impact." The specification further provides that an object of the invention is to provide a cooling device that overcomes the disadvantages of the prior cooling devices. Applicant respectfully submits that those of ordinary skill in the art would readily appreciate that a non-glass ceramic material is intended/inherent in the description since the express object is to overcome disadvantages of prior glass placement devices. Indeed, the opposite conclusion is directly contrary to the objectives of the invention. Applicant thus respectfully submits that reference to non-glass ceramic material is fully supported in the original description and those of ordinary skill in the art would be enabled to make and/or use the invention as defined in the claims. Withdrawal of the rejection is requested.

35 U.S.C. §102(b)

As discussed previously, Melson discloses a refrigerator including a refrigerator shelf having an overflow volume by virtue of its shape. In particular, Melson disclose curved refrigerator shelves that represent a spherical surface segment. The convex refrigerator shelf of Melson's preferred embodiment is produced using "conventional vending technologies" such as gravity sagging.

Melson describes that the shelf is made of "glass or glass ceramic." Melson is thus limited to a glass material shelf.

In contrast with the Melson structure, the shelf area according to the claimed invention is formed of a ceramic material, which is distinguishable from a glass ceramic. As described throughout the specification, a problem with prior art glass shelves is their sensitivity to impact. As a consequence, such shelves need to be reinforced at least at the edges. See, for example, the specification at page 1, lines 8-16 and lines 28-34. A glass ceramic such as that disclosed in the Melson patent are, like glass, susceptible to fracture by impact. As described in the Melson patent, Melson utilizes glass or glass ceramic to facilitate manufacture of the required shelf shape. As such, the Melson structure is not suitable for the ceramic material of the claimed invention.

In the "Response to Arguments" on page 10 of the Office Action, the Examiner contends that "the features upon which applicant relies . . . are not recited in the rejected claim(s)." Applicant acknowledges that limitations from the specification are not read into the claims. It is well settled, however, that Applicant is entitled to be his own lexicographer. It would be clear to those of ordinary skill in the art that reference to "ceramic material" in view of the specification is necessarily distinguishable from the glass or glass ceramic disclosed in the Melson patent. As noted above, an alternative definition is contrary to the express objectives of the invention.

Applicant thus respectfully submits that the rejection of claim 8 is misplaced.

With regard to dependent claims 9 and 10, Applicant submits that these claims are allowable at least by virtue of their dependency on claim 8 and also because they recite additional patentable subject matter.

Reconsideration and withdrawal of the rejection are respectfully requested.

35 U.S.C. §103

With regard to claims 11 and 14, Applicant submits that the Aitken patent does not correct the deficiencies noted above with regard to Melson. Additionally, as noted previously, Melson teaches away from any modification to the claimed ceramic material since the required shape of the shelves disclosed in Melson are particularly suited for glass or glass ceramic. Applicant thus submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim and because they recite additional patentable subject matter. Withdrawal of the rejection is requested.

With regard to claims 12 and 13, Applicant submits that the Tagaki patent similarly does not correct the deficiencies noted above with regard to Melson and claim 8. As such, Applicant submits that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim and because they recite additional patentable subject matter. Withdrawal of the rejection is requested.

With regard to claim 15, the Office Action recognizes that Melson lacks at least the claimed placement devices being made of a non-glass ceramic material. In this context, however, the Office Action contends that "Period Arts" discloses such subject matter with regard to shelving comprised of porcelain. In this context, the Office Action contends that porcelain is a type of non-glass ceramic. Applicant respectfully disagrees. Porcelain is indeed a ceramic material, which is made by heating raw materials. "The toughness, strength and translucence of porcelain arise mainly from the formation of *glass* and the mineral mullite . . . [at high temperatures]." See <http://en.wikipedia.org/wiki/Porcelain>. See also, <http://www.wisageek.com/what-is-porcelain.htm> ("Porcelain starts with a pale clay such as china white, which has small, tight grains that are further ground so that they are even. Materials like *glass*, feldspar, and granite are ground with the clay before water is added to the mixture so that it can be worked."). Applicant thus respectfully submits that

the combination of Melson and "Period Arts" still falls short of the claimed invention.

Still further, as also noted above, Melson in fact teaches away from any modification to the claimed ceramic material since the required shape of the shelves disclosed in Melson are particularly suited for glass or glass ceramic.

Applicant thus respectfully submits that the rejection of claim 15 is misplaced.

Claims 16-20 depend from claim 15 and are allowable for the same reasons and also because they recite additional patentable subject matter.

Reconsideration and withdrawal of the rejection are respectfully requested.

With regard to claim 21, Applicant submits that Tagaki and Aitken do not correct the deficiencies noted above with regard to the combined references and claim 15. As such, Applicant submits that claim 21 is allowable at least by virtue of its dependency on an allowable independent claim and because it recites additional patentable subject matter. Withdrawal of the rejection is requested.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of Claims 8-21 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

/James E. Howard/

James E. Howard
Registration No. 39,715
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BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-639-7644
Fax: 714-845-2807
james.howard@bshg.com